THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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WRIT PETITION No.14519 of 1997

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Date: 05.01.2007

Between:

P. Obaiah

… Petitioner

and

The Commissioner of Survey and
Settlements and Land Records,
Andhra Pradesh, Hyderabad and others

… Respondents

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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WRIT PETITION No.14519 of 1997

O R D E R:

This writ petition has been instituted calling in question an order passed by the second respondent - Director of Settlements, Andhra Pradesh, Hyderabad, on 18.03.1995 as was confirmed by the first respondent - Commissioner of Survey and Settlements and Land Records, Andhra Pradesh, Hyderabad on 14.11.1996.

The case of the writ petitioner is that he had purchased certain lands situated at Challayapalem from two different vendors sometime during 1962. He has also asserted that the adungals and other revenue records have reflected his possession and ownership. Thereafter, when he approached for grant of a joint patta, the Settlement Officer, Nellore has rejected it on 14.09.1987. Unfortunately, the appeal provided against such an order has not been preferred in time. Therefore, the Director of Settlements passed orders on 18.03.1995 declining to entertain the application, as the large extent of delay in presenting the Appeal remained unexplained. The Commissioner of Survey and Settlements and Land Records, Andhra Pradesh, Hyderabad, who had entertained the revision preferred by the writ petitioner under Section 7 of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948, found that the order passed by the Director of Settlements as

unexceptional. The Commissioner of Survey and Settlements and Land Records was very critical about inaccurate statements of fact made by the writ petitioner that the Director of Settlements did not give him adequate opportunity for participating in the proceedings since the writ petitioner cannot be said to be an illiterate person. The Commissioner has declined to allow the revision and find fault with the Director of Settlements for declining to condone the large extent of delay in presenting the petition before him.

I have heard the learned Government Pleader for Revenue also in the matter.

The fact remains that the writ petitioner has been asserting that he has purchased the lands in question in 1962 itself and that necessary entries have already been entered in the revenue records vouching his possession and title over the property in question. As to whether a joint patta can be granted or not is a question, which ought to have been decided on merits. Since valuable rights over a parcel of land have not been determined on merits, but have been determined only for the default committed in approaching the Director of Settlements in time, I consider it appropriate that the matter be entertained by the Director of Settlements, Andhra Pradesh, Hyderabad and decide the same on merits instead of rejecting it merely on the ground of delay.

In normal circumstances, delay in agitating about the rights would have been fatal, if in the *interregnum,* the interests of any third party have crept in. If the interests of no other person have crept in the matter, the delay in approaching the competent authority may not be that fatal, unless the delay itself has been construed as too excessive. Since it has not been found that the third party interests have crept in the matter in the *interregnum,* in the interests of justice, the delay of approximately four years could have been considered for condonation, provided there are merits in the case of the writ petitioner. Since the

issue has not been examined as to whether there are any merits in the theme of the writ petition at all, I consider it appropriate to set aside the order, dated 18.03.1995, passed by the second respondent and remit the matter for fresh consideration, so that the issue can be decided on merits of the matter. Any observations made in this writ petition shall not reflect on the merits involved in the issue, as I have not examined them.

The writ petition stands disposed of without costs.

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(NOOTY RAMAMOHANA RAO, J)

5th JANUARY, 2007.

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